

Planning Services*-

Gateway Determination Report

LGA	Dungog
PPA	Dungog Shire Council
NAME	Rezoning of 2 Chapman Street Dungog (0 homes, 0 jobs)
NUMBER	PP_2018_DUNGO_002_00
LEP TO BE AMENDED	Dungog Local Environmental Plan 2014
ADDRESS	2 Chapman Street, Dungog
DESCRIPTION	Lot 2 DP 810011
RECEIVED	23 August 2018 (further information 19 September 2018)
FILE NO.	EF18/33213
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

EXECUTIVE SUMMARY

The planning proposal seeks to rezone a specific parcel of land in Dungog town centre from SP2 Special Infrastructure (Rail Infrastructure Facility) to R1 General Residential zone to align the zone with its current use. The land contains a dwelling which was the former 'Station Master's Cottage' associated with Dungog Train Station. RailCorp has divested itself from this former railway asset as it is surplus to its needs.

The subject site is therefore a privately-owned dwelling encumbered by the SP2 Special Infrastructure zone which is no longer appropriate. The existing dwelling is no longer a permitted use as it is not ancillary to Rail Infrastructure Facility and therefore its existence relies on the existing use provisions of the *Environmental Planning and Assessment Act 1979*. The planning proposal seeks to amend the planning controls over the site under Dungog Local Environmental Plan 2014 to reflect the current land use and ownership status.

This report supports the proposed zone change over the subject site.

Site description

The site is located at 2 Chapman Street, Dungog (Lot 2 DP 810011). The planning proposal identifies a site area of 1006 square metres and Council's indicates the site area is 992.4 square metres. The site is a standard residential sized lot for Dungog. It contains a dwelling and a carport and is situated on a cul-de-sac where Chapman Street meets the Main Northern Rail Line corridor.

The site adjoins of the rail corridor but is distinct from this infrastructure through a separate land title.



Figure 1: Location map (source Nearmap)

Existing planning controls

The site is zoned SP2 Special Infrastructure zone which permits, as identified on the Land Zoning Map, 'Rail Infrastructure Facility'. Except for roads, all other land uses are prohibited unless ancillary to 'Rail Infrastructure Facility'.

The subject site has a nil Minimum Lot Size under Dungog Minimum Lot Size map. There are no development standards that apply to this land which is the standard approach under the Dungog LEP 2014 for this zone. There is no Floor Space Ratio map or Height of Building map under Dungog LEP 2014 as these development standards are managed via Dungog Development Control Plan. This planning approach to development standards is not proposed to be changed.

The site is also part of the Dungog Heritage Conservation Area and therefore future development is required to address clause 5.10 Heritage Conservation. There are no changes proposed to the heritage status of the subject site.

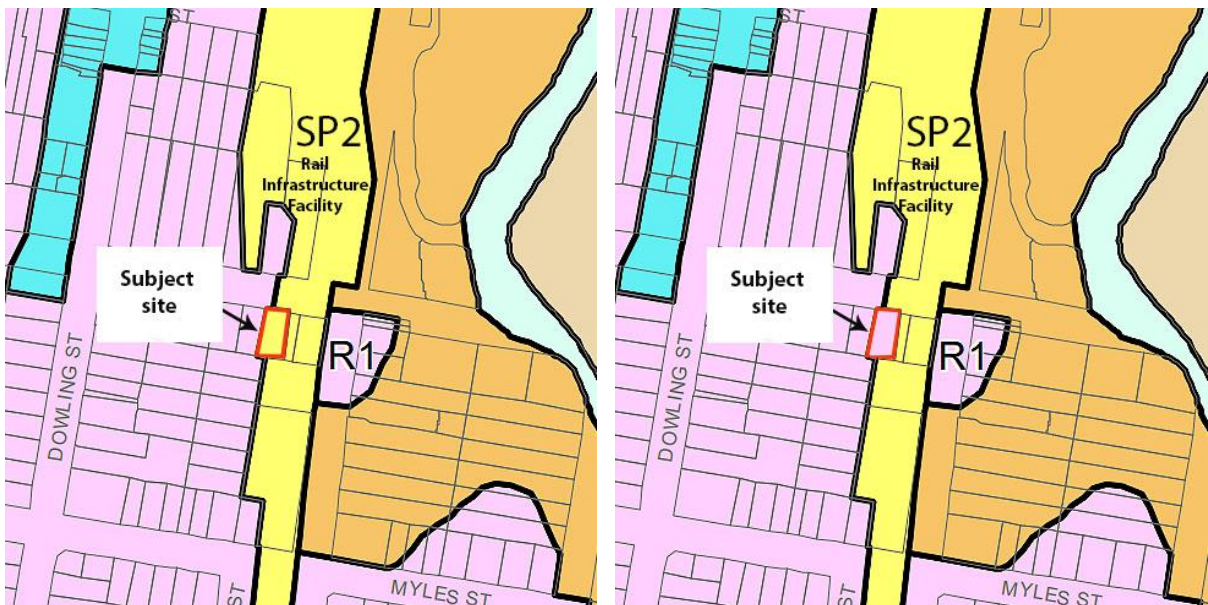


Figure 2: Existing zone and Figure 3: Proposed Zone (source Dungog LEP 2014)

Surrounding area

The site is on the eastern edge of Dungog town centre which is bounded by the Main Northern Rail Line corridor. The property is located 440 metres from Dungog Railway Station and about 500 metres to the town centre. The surrounding area is characterised by Dungog heritage conservation area which covers the majority of the town centre. Dungog township contains heritage items from the pre-1890 and early 20th Century periods.

There are also some dwellings on the eastern side of the rail corridor, directly opposite the subject site, that are also zoned R1 General Residential zone. Beyond the rail corridor the land is zoned E3 Environmental Management zone which flood prone land. Further east, the Williams River skirts Dungog township.

Summary of recommendation

It is recommended that the matter proceed with the standard conditions for community consultation and a timeframe to complete the planning proposal.

PROPOSAL

Objectives or intended outcomes

The objectives of the planning proposal are adequately conveyed for community consultation. The planning proposal seeks to amend Dungog Local Environmental Plan 2014 to rezone the subject site from SP2 Special Infrastructure to R1 General Residential zone.

Explanation of provisions

The explanation of provisions is presented in a clear manner which is appropriate for community consultation. The provisions are to amend the Dungog LEP 2014 Land Use Zone map for the subject site.

In summary, the provisions of the planning proposal are:

Provisions	
2 Chapman Street Lot 2 DP 810011	Apply a R1 General Residential zone to the subject site

Table 1: Proposed planning controls

Mapping

The proposal includes amendments to Dungog LEP 2014 Land Zoning map the description of which in the planning proposal is adequate for community consultation.

The Dungog LEP 2014 Land Zoning map (map tile LZN_009AC) requires amendment.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is not the result of a study or report but originates from a request from the land owner through their consultant.

The subject site is no longer used for SP2 Special infrastructure purposes and is no longer consistent with the zone's objectives which is to provide for infrastructure and

related uses and to prevent development that is not compatible with the provision of infrastructure.

The dwelling is more in keeping with a residential street and R1 General Residential zone objectives which primarily provide for housing needs for the community.

A planning proposal is the best way to bring the subject site into line with Residential Zone land uses and controls. The rezoning will allow the appropriate planning controls for the site to apply through Dungog Development Control Plan No.1.

Currently the land owner must rely on the Existing Uses provisions of the Act which means the 'Station Master's Cottage' which was a lawful dwelling before the coming into force of Dungog LEP 2014, is prohibited but for the Existing Uses provisions in the Act. As the dwelling and the subject site is now in private ownership and is not required by RailCorp as a rail infrastructure facility, it is appropriate that a dwelling becomes a permitted use.

The SP2 Special Infrastructure zone is perceived as a barrier to potential purchasers of residential property and financial lenders due to the reliance on existing use rights.

It is appropriate in this circumstance, where the land is no longer required for rail infrastructure purposes to rezone the land to be consistent with the surrounding land uses which are residential in this case.

The R1 General Residential zone will assist to streamline future development pathways for residential uses.

STRATEGIC ASSESSMENT

State

The planning proposal is not inconsistent with the state strategic planning framework.

Regional

The planning proposal is not inconsistent with the *Hunter Regional Plan 2036 (HRP)*. Many of the HRP directions are not directly relevant as the prime objective of the planning proposal is to allocate an appropriate land uses to the site that reflects its tenure and surrounding uses.

However, it is considered the planning proposal is consistent with the following Directions;

Direction 19 seeks to identify and protect the region's heritage by advocating interpretation and adaptive re-use of built heritage can contribute social and economic benefits to smaller communities. The Station Master's Cottage will be better protected under the R1 General Residential zone which permits development types more sympathetic to the existing dwelling.

Direction 21: Create a compact settlement. The proposal will contribute to Action 21.3 which seeks to identify opportunities for urban redevelopment or renewal in urban locations with access to public transport and services where there may no longer be a need for employment land. As this SP2 zoned land is no longer required to compliment the nearby rail infrastructure then it should be made available for ongoing residential use.

Local

Dungog Land Use Strategy 2010

The planning proposal agrees with the local strategy that Dungog needs an additional 287 dwellings due to the projected decrease in occupancy rate. It goes on to say that although the rezoning will not provide any new lots, it will however preserve the current residential land use.

The planning proposal is consistent with the Strategy's goal to protect and enhance the local heritage of Dungog through Council's heritage incentive program that encourages the adaptive re use of existing heritage items.

Section 9.1 Ministerial Directions

The planning proposal regards the proposal as being inconsistent with a number of Section 9.1 Directions however this is not the case. The planning proposal is consistent with the following directions contrary to the planning proposal.

1.1 Employment and Resources – Direction 1.1 does not apply as the planning proposal does not affect a business or industrial zone under clause 2.1 of Dungog LEP 2014. The land is zoned a Special Purpose zone which is SP2 Special Infrastructure zone.

2.3 Heritage Conservation – the planning proposal is consistent with Direction 2.3 as it will not alter the existing provisions that protect the Dungog Residential Precinct Heritage Conservation Area.

3.1 Residential zones – the planning proposal is consistent with Direction 3.1 as it will broaden housing choice and locations available in the housing market through zoning the land to R1 General Residential zone making dwellings permissible.

State environmental planning policies

SEPP 55 – Remediation of land: although the previous use is connected to the railway there are no notices issued for the site for contamination.

Council indicates there are no records of contamination on the site as it has been used for a dwelling connected to the railway operations. Council is satisfied the site is suitable for residential land uses.

The planning proposal is consistent with State policies.

SITE-SPECIFIC ASSESSMENT

Social - Heritage

The site is identified as part of the Dungog Residential Precinct - Heritage Conservation Area. Neither the building or the site is listed as a separate heritage item under Schedule 5 of the Dungog LEP 2014.

The 'Station Master's Cottage' is an example of typical Victorian era domestic construction. It is likely to have been built sometime between 1860 and 1900. It has a simple symmetrical form with a hipped corrugated roof and skillion front verandah. The 'Station Master's Cottage' contributes streetscape value to the Dungog Residential Precinct Heritage Conservation Area.

Consultation with the NSW Heritage Office is not required because the dwelling will continue to be protected under clause 5.10 Heritage conservation of Dungog LEP

2014 if rezoned to R1 General Residential zone and its heritage protection status will not change.

Environmental

The planning proposal refers to the *Rail Traffic Noise and Vibration Impact Assessment Report* prepared by Reverb Acoustics dated February 2018. The report assessed the potential impact of noise and vibration from North Coast Rail Line traffic on the existing residence and its ongoing use as a habitable dwelling. The Report refers to the Department's Development near Rail Corridors and Busy Roads – Interim Guideline which seeks to ensure the proposed residential zone will not compromise key transport infrastructure and ensure that the appropriate acoustic amenity is achieved.

Noise

The report found that the dwelling is subject to internal noise levels that exceed the relevant criteria by 18dB. Acceptable internal noise levels are 40dB in the daytime and 35dB in the night time. The Guideline does not address how existing dwellings should be attenuated but rather seeks to guide new development affected by rail and road impacts. The Report recommends that leniency should be given to existing dwellings, however any additional rooms added onto the dwelling would be required to attenuate to the required levels.

The Report indicates that frequency of rail transport will not increase but rather the length and weight of trains will increase overtime.

Council is in agreement with the Report in the sense that were it to receive a development application for additions or alterations it would require acoustic remediation for those parts of the dwelling. Council considers it unreasonable to require the existing dwelling to retro-fit attenuation as it has functioned as a dwelling for railway employees for some time.

Vibration

The report indicates that human use of the building will cause more vibration than passing trains. The vibration from trains will only trigger 'natural cracking' that would have occurred without the proximity to the train line. It acknowledges that the dwelling has been there for over 100 years and shows no sign of structural damage from vibration.

Assessment

ARTC's response to Council's early referral of the acoustic Report (see under Consultation – Agencies below) indicates it does not have an objection to the proposal providing Council considers the findings of the acoustic report and the site's proximity to an operational rail corridor.

It is considered as the dwelling has been in place for a significant period and that RailCorp has divested itself of the dwelling to the private housing market, that it is unreasonable to require the landowner to attenuate the dwelling to the accepted noise levels identified in the Guideline. The purpose of the planning proposal is to apply an appropriate residential zone to the land now that the land is surplus to the requirements of rail infrastructure. The appropriate juncture for the noise

exceedance level to be addressed would be at a time when the landowner chooses to invest in the dwelling through alterations and additions.

Economic

There are no real economic impacts to Dungog township as a result of the planning proposal however there are identified financial benefits to the current and future land owners. The proposed R1 General Residential zone will provide the land owner with financial certainty as to the ongoing use of the site for residential purposes now that the land is no longer required for a 'Rail Infrastructure Facility' or ancillary uses to RailCorp.

Infrastructure

There is no requirement for the provision and funding of state infrastructure for the creation of a single residential allotment.

CONSULTATION

Community

Council has not specified a timeframe for community consultation however, as the proposal is considered to be of a low impact nature and a 14-day public exhibition is considered suitable.

Agencies

Council has not specified consultation with any Government agency and leaves this to the Department to stipulate under the Gateway.

Council sought advice from Australian Rail and Track Corporation (ARTC) prior to the Council Report (June 2018) as it has control over RailCorp's infrastructure for the daily operations of the North Coast Rail Line. ARTC responded to Council's request and indicated it did not have objections to the proposal providing Council consider any of the findings of the acoustic report and that the subject site adjoins an operational rail corridor (see **Attachment A**). This can be considered through future development applications.

Council provided the Acoustic Assessment when referring the matter to ARTC. Although the planning proposal was not provided to ARTC, it is clear from its response that ARTC understood the planning proposal's intention is to rezone the site to R1 General Residential zone and therefore it is considered that further consultation with ARTC is not required.

It is also considered that consultation with RailCorp is not required as its interest in the land was forgone once the land was transferred into private ownership.

No consultation is required for the following Government agencies.

TIME FRAME

Due to the minor nature of the planning proposal a six (6) months' timeframe is appropriate. However due to Council's shortage of planning resources a 12-month timeframe is proposed to allow for appropriate resources to be allocated to the planning proposal.

LOCAL PLAN-MAKING AUTHORITY

The Minister delegated his plan making powers to councils in October 2012, however Dungog Council did not accept these delegations, therefore authority to exercise delegations is not issued.

CONCLUSION

The proposal is supported to proceed with conditions. Consultation with the community is required to understand community opinion on the proposal.


The proposed amendment is supported as it will allow an existing residential dwelling to be recognised with an appropriate zone.

RECOMMENDATION

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 14 days.
2. No consultation is required with public authorities/organisation under section 3.34(2)(d) of the Act
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given that Dungog Council has not accepted the Minister delegations, Council is not authorised to be the local plan-making authority to make this plan.

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2/10/2018
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